

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Quantum Computer Services, Inc. :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Corporation :
Franchise Tax under Article 9A of the Tax Law for :
the Year 1975. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

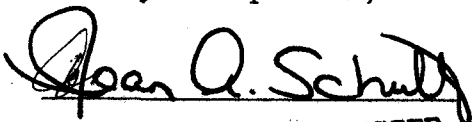
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 9th day of September, 1983, she served the within notice of Decision by certified mail upon Quantum Computer Services, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Quantum Computer Services, Inc.
64 University Place
New York, NY 10003

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
9th day of September, 1983.



AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

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of :
Quantum Computer Services, Inc. :
AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
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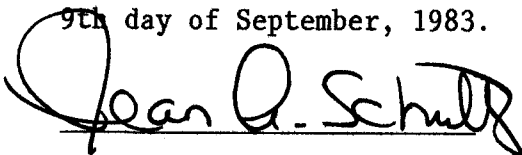
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 9th day of September, 1983, she served the within notice of Decision by certified mail upon Jon Emanuel the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Jon Emanuel
Emanuel & Emanuel
170 Broadway
New York, NY 10038

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
9th day of September, 1983.


Jean A. Schult

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174


Connie R. Hagelund

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

September 9, 1983

Quantum Computer Services, Inc.
64 University Place
New York, NY 10003

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1090 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Law and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Jon Emanuel
Emanuel & Emanuel
170 Broadway
New York, NY 10038
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
QUANTUM COMPUTER SERVICES, INC.
for Redetermination of a Deficiency or for
Refund of Corporation Franchise Tax under
Article 9-A of the Tax Law for the Fiscal Year
Ended June 30, 1975.

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DECISION

Petitioner, Quantum Computer Services, Inc., 64 University Place, New York, New York 10003, filed a petition for redetermination of a deficiency or for refund of corporation franchise tax under Article 9-A of the Tax Law for the fiscal year ended June 30, 1975 (File No. 20382).

A formal hearing was held before Melvin S. Barasch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 18, 1979 at 1:30 P.M. Petitioner appeared by its President, Paul E. McArdle. The Audit Division appeared by Peter Crotty, Esq. (Aliza Schwadron, Esq., of counsel).

ISSUE

Whether petitioner is engaged in the production of goods by manufacturing, processing, etc., so that machinery it bought for use in such production may qualify for the investment tax credit set forth in section 210(12)(b) of the Tax Law.

FINDINGS OF FACT

1. On December 11, 1975, petitioner, Quantum Computer Services, Inc. (Quantum), filed a New York State Corporation Franchise Tax Report Article 9-A (Form CT-3) for the period July 1, 1974 through June 30, 1975. This Report included a claim for an investment tax credit in the amount of \$314.00.

2. The Audit Division issued petitioner a Statement of Audit Adjustment on November 12, 1976, denying the above claim for investment tax credit and reading in pertinent part:

"The items (sic) on which you claimed a credit do not qualify as you are not engaged in the production of goods by manufacturing them."

Following this Statement of Audit Adjustment was a Notice of Deficiency, issued to petitioner on June 22, 1977.

3. Quantum is a New York corporation doing business at 64 University Place, New York, New York, and reporting taxes based on a fiscal year ending on June 30.

4. Quantum is in the business of providing printed statements, ledgers, invoices, payroll checks, etc., primarily for customers involved in the office temporary services and home care (visiting nurses) industries. Quantum provides computer services for customers who do not have their own computer equipment.

5. Quantum's method of operation is to receive data, such as time cards and other payroll information, from its customers. This data is introduced into Quantum's computers by the use of "keypunch" machines and "reading" machines. Employees using the "keypunch" machines encode data on cards or magnetic tapes, and the "reading" machines feed the data encoded on these cards and tapes into the computers. The computers then organize, manipulate and compile this information into the form needed by the customer and cause this organized information to be printed out by a printing machine.

6. Quantum bases its claim for investment tax credit on the purchase of a "keypunch" machine for use in its business. This machine, known technically as an "interpreter data recorder", was purchased by petitioner on November 11,

1974 at a cost of \$15,716.00, and assertedly has a useful life (for depreciation purposes) of ten (10) years.

7. Petitioner contends its business is to process, refine, manufacture and assemble its customers' raw data into a finished product, to wit, a payroll check or other printed statement. Petitioner asserts that the "keypunch" machine plays an integral role in its business, inasmuch as the data could not be introduced into the computers without the "keypunch" machine. Petitioner does not provide a "keypunch" service separately to its customers, but rather uses the "keypunch" machines as a step toward entering customers' data into the computers.

8. The Audit Division contends, by contrast, that petitioner provides a service of compiling or organizing and printing data, but is not engaged in the production of a manufactured product.

CONCLUSIONS OF LAW

A. That section 209 of the Tax Law imposes a franchise tax on domestic and foreign corporations, with certain exceptions, based on "...the privilege of exercising its franchise or doing business in this state in a corporate or organized capacity...".

B. That section 210(12)(b) of the Tax Law pertains to the franchise tax imposed by section 209 (above), and in pertinent part provides: "[a] credit shall be allowed...with respect to tangible personal property and other tangible property...principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining,..." (emphasis added).

C. That section 210(12)(b) of the Tax Law also provides:

"For purposes of this paragraph, manufacturing shall mean the process of working raw materials into wares suitable for use or which gives new shapes, new quality or new combinations to matter which

already has gone through some artificial process by the use of machinery, tools, appliances and other similar equipment."

D. That processing may be defined as an operation whereby raw material is subjected to some special treatment, by artificial or natural means, which transforms or alters its form, state or condition. See, e.g., Linwood Stone Products Co. v. State Dep't. of Revenue, 175 N.W.2d 393, 395, (Supreme Court of Iowa, 1970), 34 Words and Phrases 261.

E. That McKinney's Statutes section 230 provides "[t]he words and phrases used in a statute should be given the meaning intended by the lawmakers."

Furthermore, that McKinney's Statutes section 94 provides:

"The legislative intent is to be ascertained from the words and language used, and the statutory language is generally construed according to its natural and most obvious sense, without resorting to an artificial or forced construction."

F. That as then-Governor Rockefeller stated in a memorandum accompanying his approval of the bill containing the investment tax credit at issue herein:

"(1) It will encourage the modernization of antiquated production facilities, and make New York a more attractive location for manufacturers..." (emphasis added) (1969 McKinney's Session Laws of New York at p. 2576).

G. That petitioner Quantum is not engaged in the production of goods by manufacturing, processing, etc., within the meaning and intent of those terms as found in section 210(12)(b) of the Tax Law, and thus petitioner may not be allowed an investment tax credit under that section of the Tax Law. See First Data Corp. v. State Tax Commission, Mass., 357 N.E.2d 933, (1976).

H. That the petition of Quantum Computer Services, Inc. is hereby denied and the Notice of Deficiency dated June 22, 1977 is sustained.

DATED: Albany, New York

STATE TAX COMMISSION

SEP 09 1983

Roderich Aschm
PRESIDENT

Frank R. Koenig
COMMISSIONER

Mark J. O'Neil
COMMISSIONER

TA 26 (9-79)

STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227

CERTIFIED

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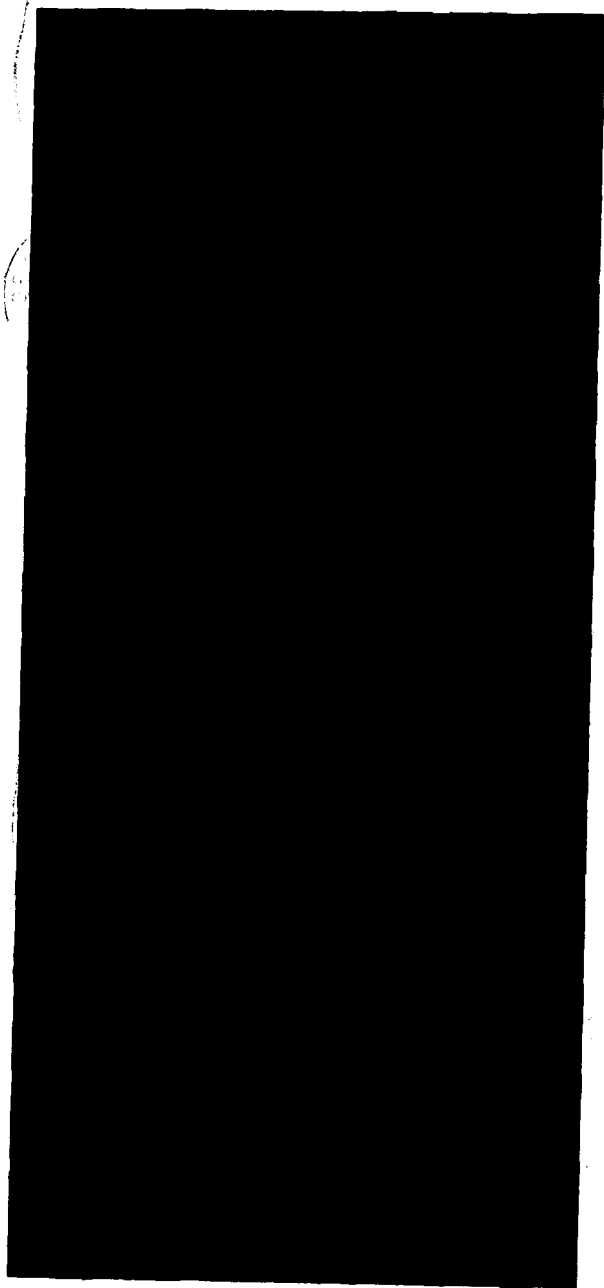
Quantum Computer Services, Inc.
64 University Place
New York, NY 10003

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delivered



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REQUEST FOR BETTER ADDRESS

Requester Appeals Bureau Room 107 - Bldg. #9 State Campus Albany, New York 12227	Unit	Date of Request 9/28/83
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Please find most recent address of taxpayer described below; return to person named above.

Social Security Number	Date of Petition F - Dec. - 9/9/83
Name Quantum Computer Services, Inc.	
Address 64 University Pl. New York, N.Y. 10003	

Results of search by Files

<input type="checkbox"/> New address:	N/F AR 9/28/83 JW
<input type="checkbox"/> Same as above, no better address	
<input type="checkbox"/> Other:	Moved to forward address

Searched by	Section	Date of Search

PERMANENT RECORDFOR INSERTION IN TAXPAYER'S FOLDER

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

September 9, 1983

Quantum Computer Services, Inc.
64 University Place
New York, NY 10003

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NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Jon Emanuel
Emanuel & Emanuel
170 Broadway
New York, NY 10038
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
QUANTUM COMPUTER SERVICES, INC.
for Redetermination of a Deficiency or for
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DATED: Albany, New York

STATE TAX COMMISSION

SEP 09 1983

Richard W. Clark
PRESIDENT

Frank R. Koenig
COMMISSIONER

Mark J. [Signature]
COMMISSIONER